

13 CIV 934

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GERGAL SA,

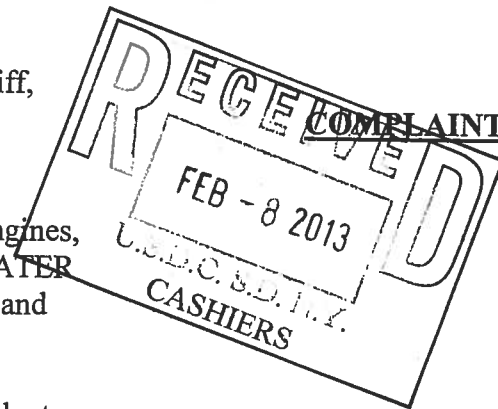
Index No.

Plaintiff,

- against -

M/V "BUENOS AIRES EXPRESS", her engines,
tackle, boiler, etc., *in rem*, RIO BLACK WATER
SCHIFFFAHRTS, BLUE ANCHOR LINE and
BIOMAC S.R.L., *in personam*,

Defendants.
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The plaintiff herein, by its attorneys, Hill Rivkins LLP, complaining of the above-named vessel and defendants, alleges upon information and belief:

FIRST: This Court has jurisdiction pursuant to 28 U.S.C. 1331(a) in that this is an admiralty and maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure.

SECOND: At and during all times hereinafter mentioned, plaintiff had and now has the legal status and principal office and place of business stated in Schedule A hereto annexed and by this reference made a part hereof.

THIRD: At and during all the times hereinafter mentioned, defendants had and now have the legal status and offices and places of business stated in Schedule A, and were and now are engaged in business as common carriers of merchandise by water for hire, and owned, operated, managed, chartered and controlled the above named vessel

which now is or will be within the jurisdiction of this Court during the pendency of this action, or acted otherwise as bailees and/or warehousemen.

FOURTH: On or about the date and at the port of shipment stated in Schedule A, there was delivered to the vessel and defendants in good order and condition the shipment described in Schedule A, which the said vessel and defendants received, accepted and agreed to transport for certain consideration to the port of destination stated in Schedule A.

FIFTH: Thereafter, the said vessel arrived at the port of destination described in Schedule A and the cargo not delivered in the same good order and condition in which it was received.

SIXTH: Defendants, by reason of the premises, breached their duties to the plaintiff as common carriers by water for hire and bailees and/or warehousemen and were otherwise at fault.

SEVENTH: Plaintiff was the shipper, consignee or owner or otherwise had a proprietary interest of and in the cargo as described in Schedule A, and brings this action on its own behalf and, as agents and trustees, on behalf of and for the interest of all parties who may be or become interested in the said shipment, as their respective interests may ultimately appear, and plaintiff is entitled to maintain this action.

EIGHTH: Plaintiff has duly performed all duties and obligations on its part to be performed.

NINTH: By reason of the premises, plaintiff has sustained damages nearly as same can now be estimated, no part of which has been paid, although duly demanded, in the amount of \$170,000.00

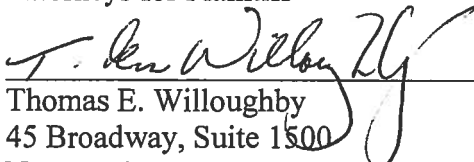
W H E R E F O R E, plaintiff prays:

1. That process in due form of law according to the practice of this Court may issue against defendants.
2. That if defendants cannot be found within this District, that all of their property within this District, as shall be described in the affidavit, be attached in the sum set forth in this complaint, with interest and costs.
3. That a decree may be entered in favor of plaintiff against defendants for the amount of plaintiff's damages, together with interest and costs.
4. That process in due form of law according to the practice of this Court may issue against the aforesaid named vessel.
5. Plaintiff further prays for such other, further and different relief as to this Court may seem just and proper in the premises.

Dated: New York, New York
February 8, 2013

HILL RIVKINS LLP
Attorneys for Plaintiff

By:



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SCHEDULE A

Plaintiff: Gergal S.A.
1603 Villa Martelli
Buenos Aires, Argentina

Defendants: Rio Black Water Schifffahrts
c/o MPC Munchmeyer Petersen Steamship
GmbH & Co. KG
Palmaille 67, 22767
Hamburg, Germany

Blue Anchor Line
c/o Kuehne & Nagel, Inc.
10 Exchange Place
Jersey City, New Jersey 07302

Biomac S.R.L.
José Ingenieros 3030 Oficina No. 6
CP 1643 – San Isidro
Buenos Aires, Argentina

Date of Shipment: February 10, 2012

Port of Loading: Buenos Aires

Port of Discharge: Los Angeles

Shipper: Biomac SRL.

Consignee: Sunopta Global Organic Ingredients

Notify: Kuehne & Nagel, Inc.

Description of Shipment: 3735 cases of blueberries

Bill of Lading: Banqbue 03183527120-9116-202.011
Banqbue 03183527120-9116-201.013

Nature of Loss or Damage: Thawing, deterioration, physical damage